

Public Policies

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MDI okays new medical malpractice insurer; 7th entry into Missouri market in 2003

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The Missouri Department of Insurance (MDI) has licensed its seventh new medical malpractice insurer in the state this year – a physician-controlled carrier organized in Poplar Bluff, but expected to write coverage for doctors statewide.

MDI Director Scott B. Lakin characterized the licensing of **Physicians Professional Indemnity Association (PPIA)** as the latest evidence that doctors themselves were moving to ease Missouri's capacity problem, which was created when several national malpractice insurers either stopped writing coverage altogether or closed in the past two years.

Eight Poplar Bluff doctors organized PPIA, which will operate as a special kind of mutual or policyholder-owned insurer under Missouri law. Such insurers were first authorized in 1975 to help physicians and other health-care providers obtain coverage after most multi-line insurers withdrew from the business.

The so-called "Chapter 383" companies differ from most mutuals because policyholders not only own the company, but are responsible for any deficits¹

(See malpractice, p. 2)

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Public Policies serves as a key communications link between MDI and Missouri's legislators, weekly and broadcast media, industry observers and trade associations.

**Comments or questions,
call 573-526-2946.**

Lakin obtains court order barring sales of Caribbean firm's malpractice policies

*Coverage from illegal insurer widely promoted
to hundreds of doctors in St. Louis, Kansas City*

Missouri Department of Insurance Director Scott B. Lakin obtained a court order June 16 prohibiting sales of medical malpractice insurance by a widely promoted, but unlicensed U.S. Virgin Islands firm that would place hundreds of Missouri doctors and their patients in jeopardy.

Security Trust Insurance Co. Ltd., through its "Ameristar" division, has been the centerpiece of malpractice insurance programs developed by insurance broker Arthur J. Gallagher's St. Louis office for the St. Louis Metropolitan Medical Society and a new venture known as the Kansas City Physicians Organization.

Security Trust has no authority to sell any insurance in Missouri, had its Virgin Islands license suspended for serious violations of territorial law and reportedly is the subject of criminal or administrative action or investigations in at least five states.

Among the main Virgin Islands violations cited in an order April 29

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Malpractice

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through special assessments in addition to annual premiums. This structure allows such insurers to begin operating with less initial financial investment.

"In both 1975 and 1986, physician-controlled companies played leading roles in resolving the affordability and availability problems in the medical malpractice market," Lakin said. "Today, the leading malpractice insurers in Missouri have their roots in this movement, although many became so successful that they evolved into publicly held corporations."

PPIA plans to write all physician specialties, including surgery, which has relatively expensive rates compared to other types of medical practices. The company expects to begin accepting applications by early June, which could make coverage available for the July 1 renewal cycle common among doctors.

A Jefferson City firm, Corporate Insurance Services LLC, will manage the new medical malpractice insurer's operations, including processing of applications, but no contact number for prospective policyholders is yet available. The company initially will solicit business through direct marketing, but may expand to brokers in the future. PPIA has not yet filed a formal business plan with MDI.

Before 2003, the Chapter 383 companies in Missouri had dwindled to one, the Missouri Hospital Plan, operated by the Missouri Hospital Association, which focuses on its member health-care facilities. But earlier this year, MDI licensed **Missouri Physicians Mutual**, based in St. Louis, to write for individual doctors and medical groups.

Other physicians in St. Louis, Kansas City and Springfield also have expressed interest in forming 383 ventures.

From August 2001 to May 2002, Missouri lost 57 percent of its market capacity to write new business for physicians and surgeons because two national writers closed because of insolvency, the largest national carrier withdrew from the entire line of business and Missouri's leading writer exhausted its financial capacity to expand as demand grew.

This capacity problem greatly complicated efforts to insure doctors who lost their carriers or were shopping for new insurers, and the restricted supply — along with other factors — fueled major increases in rates.

Contact and marketing information on current writers of Missouri physicians' medical malpractice coverage is on the MDI Web site at www.insurance.mo.gov. Such background on PPIA will be posted there when it becomes available. ❖

Policies

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was Security Trust's failure, since its inception in 1995, to file proof that it financially could pay claims. Although the insurer was formed to issue group life coverage, it began marketing the distinctly different product of medical malpractice insurance — a development Virgin Island authorities called "alarming."

Both the St. Louis Metropolitan Medical Society and the Kansas City Physicians Organization have been rolling out their promotion of the Ameristar malpractice insurance this month, which is one of the two major renewal cycles for physicians. The St. Louis society was scheduled to kick off its offering at a membership meeting tomorrow.

The Kansas City Physicians Organization (KCPO), which is a few months old, says in its Web site that 790 doctors and other health-care providers are members. The St. Louis Medical Society reports that it has 2,000 physician-members.

"While our investigation of these arrangements is less than two weeks old, I have grave concerns that this unauthorized company would ever provide the coverage it promised," Lakin said.

"Doctors would have no assurances that the company would pay for legal counsel and expenses from litigation, and victims of medical injury would have to collect any damages from the personal assets of physicians, such as their homes and practices. We needed to act quickly to protect doctors and patients from this

illegal operation."

Lakin said that during "hard" markets — in

which coverage is difficult and extremely expensive to obtain — policyholders are often tempted to take the risk of buying coverage that "is simply too good to be true."



(See *Policies*, p. 3)

Policies

(continued from page 2)

Although seven new medical malpractice insurers for physicians have been licensed since Jan. 1, Missouri is still suffering from a "capacity" problem that followed the insolvency of two national insurers, the withdrawal of two other insurers from the malpractice business across the country and a moratorium on new policies by the state's largest writer. In a nine-month period of 2001 and 2002, the Missouri market lost 57 percent of its capacity to write new business.

Such difficult periods also are prime times for illegal insurance programs and carriers, often based in non-American jurisdictions. In Missouri and virtually all states, medical malpractice insur-



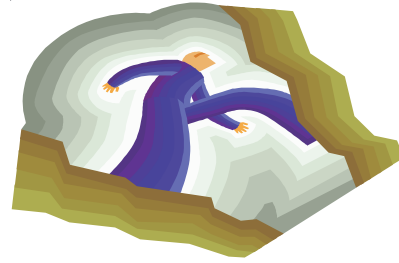
ance is available only through fully licensed companies or so-called "surplus lines" insurers, which are not licensed or regulated, but must prove they have the financial ability to pay claims.

For example, MDI today issued a cease-and-desist order against sales and solicitations by First Actual American Insurance Co., an unlicensed firm said to be associated with an unregistered American Indian tribe that has been giving malpractice quotes to doctors, at least in the Kansas City market. Several states have banned the firm.

"We have made unprecedented attempts to keep malpractice brokers, doctors and trade groups apprised of both established and new companies operating legally in Missouri, considering the current market environment and the potential for scams," Lakin said.

The MDI Web site — insurance.mo.gov — includes a special directory of active medical malpractice writers, and a general company search will allow checking whether any company is li-

censed in the state and for what purpose. Physicians and others also can call MDI's consumer hotline — 1-800-726-7390 — to verify whether a



company can legally write coverage as a licensed entity or surplus lines carrier.

The plan involved issuing insurance through associations, including the American Association of Healthcare Practitioners, based in New Hampshire. This group and related parties also are prohibited from making insurance sales in Missouri under the temporary restraining order obtained today. Applications were accepted through an Internet site.

Lakin said MDI is continuing its investigation. He urged doctors who have been solicited — or may have actually purchased Security Trust/Ameristar coverage — to contact MDI immediately, either with the MDI Web site's complaint form or via the consumer hotline, 1-800-726-7390. He noted that doctors outside the two metropolitan areas also may have been solicited.

Among the states reportedly investigating or taking action against Security Trust/Ameristar are Connecticut (cease-and-desist order in February), Kentucky, Colorado, California and Nevada.

Cole County Circuit Court Judge Richard Callahan issued the temporary restraining order today. He tentatively set a hearing on a preliminary injunction for June 25, and Lakin will seek a permanent injunction later.



Lakin says May storm damage likely to reach \$500 million in Missouri

Insured losses from early May's tornados and other violent storms in Missouri likely will reach or exceed \$500 million, MDI Director Scott Lakin said.

Those losses are heaviest in southwest Missouri, where tornados rampaged through Carl Junction, Pierce City, Stockton, Battlefield, Camdenton and several other communities.

Lakin said MDI's survey of the 32 insurers most active in the counties hit by the storms showed that they already projected losses of \$400 million just through the end of May.

"The May tornadoes and other storms appear certain to rank No. 2 in Missouri's history of insured storm losses, behind only the April 2001 hail storm in north St. Louis County," Lakin said.

He said his estimate is greater than the insurer survey results because it took into account:

- The historical tendency for damages to rise as claims actually are settled, particularly when so many communities are damaged almost simultaneously and companies deploy adjusters from across the nation to assist. Most companies responded quickly to the May disaster and brought in more than 500 additional personnel to begin the insurance adjustment process.

- Unreported damage from more than 100 smaller homeowners insurers that write policies in the state.

- Unreported damage from 120 county mutual insurance companies, which largely are not regulated by MDI. In several of the storm-damaged areas, these companies already were prominent and assuming larger shares of the homeowners market, based on anecdotal reports.

Lakin also said he anticipates that more than 75,000 Missourians will file claims from the storms, which produced tornados, wind and hail from "super-cell" formations that stalled over the mid-Mississippi Valley.

The 32 insurers surveyed already reported

more than 58,000 claims through the end of May and expected more than 70,000 from the storm.

In most areas of the state, insurer reported that claims were divided equally – for every home destroyed or damaged, an auto had been hit. Among the regional pictures reported by insurers:

- Insurers in southwest Missouri reported 13,608 claims by the end of May¹, but the damage was much more severe than in other areas of the state. The Ozarks claims reached 29 percent of the statewide total, but accounted for 41 percent of the damage already valued.

- Southeast Missouri – with principal disaster sites at Jackson and DeSoto – had a disproportionate share of damages to buildings, with 8,208 claims filed for structures, compared to only 5,645 for vehicles. This area – although it had the largest number of claims in the state – had less severe damage generally to buildings and autos. Despite 30 percent or 13,853 of the claims, it suffered only 22 percent of the damage in preliminary valuations.

- Greater Kansas City, including Gladstone and Parkville, had 5,642 vehicle and 5,599 structural claims, which accounted for one-fourth of both claim and loss totals in Missouri.

- Northeast and central Missouri – ranging from serious damage in northeast Missouri's Lewis County to hail and wind losses near Columbia – produced 17 percent of the state's claims, but 12 percent of the losses.

The insurance department typically answers routine inquiries and handles a scattering of complaints about temporary housing and filing a claim during the first month after a storm. By late last week, MDI has established 31 formal complaint investigations and handled more than 250 storm-related inquiries.

But Lakin said MDI is preparing for the hectic activity associated with the second phase after a storm – policyholder dissatisfaction with

(See *Storms*, p. 5)

Storms

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settlement offers.

After the St. Louis hailstorm, almost 800 formal complaints were processed – most dealing with unsatisfactory settlements.

Lakin said MDI may have passed into that second phase June 16 in DeSoto, when more than three dozen policyholders showed up for individual counseling about insurance-related problems. The turnout was so heavy that the department's St. Louis supervisor convened an impromptu "town hall" meeting and scheduled a second day of counseling for June 19.

The June 19 session in DeSoto was originally announced as the last in a series of eight one-day, on-site counseling sessions for victims of tornados in Battlefield, Canton, Mt. Vernon, Camdenton, Jackson, Stockton and Kansas City North/Gladstone.

Over the next month, MDI consumer counselors are likely to return to those areas to provide further assistance.

Lakin released the revised figures on storm damage during remarks to the Northland Regional Chamber of Commerce in North Kansas City.

During his talk, Lakin also noted how the storm there and across Missouri has re-emphasized the need for business owners to make sure their coverage includes "business interruption" coverage, which reimburses them for lost income when they are closed or impaired by storm damage and extra expenses needed to stay open or relocate.

Although Missouri largely deregulated business insurance in the late 1990s, Lakin said he fears that many business owners have been tempted to drop business interruption coverage as part of their efforts to reduce insurance costs during the "hard market" of the past two years. The hard market has caused a surge in costs for business insurance that, across the country, has been averaging 25 percent or more a year.

"Many businesses will survive only because they had this kind of coverage, which is part of the standard business owners package," Lakin said. "It is not enough to insure just the building, equipment and inventory a business owns."



Personnel Actions

New Hires

Leslie Nehring, financial examiner

Resignations

Jessica Kueffer, insurance licensing tech



Regulatory actions –

May 2003

Legal action - agents, agencies, brokers, companies

Stanley Bailey, New Cambria, MO, \$100 forfeiture for failing to respond.

Frank J. Clark, Grandview, MO, \$300 forfeiture for lack of trustworthiness or competence and selling insurance without a license.

Daniel W. Deiter, Montgomery City, MO, \$350 forfeiture for lack of competency and unsound underwriting.

George L. Delapp, Independence, MO, \$250 forfeiture for late or incomplete responses, failure to maintain books, records and unsound underwriting practices.

Robert Eidman, St. Peters, MO, \$100 forfeiture for misquoting on premium.

Richard Gall, St. Louis, MO, St. Louis, MO, license refused due to criminal record/history.

Darrell D. Ray, Bloomfield, MO, \$100 forfeiture for demonstrating lack of fitness or trustworthiness.

Daniel J. Reardon, Shillington, PA, referred for disciplinary action for unauthorized insurance business and multi-state and international money transfers.

Frieda Whitfield, St. Louis, MO, \$100 forfeiture for providing ID card with the wrong company name.

AF & L Insurance Co., Warrington, PA, \$1,000 forfeiture for inaccurate data filing.

American Bankers Life Assurance Co. of Florida, Miami, FL, \$1,000 forfeiture for inaccurate data filing.

American Fire and Casualty Co., Fairfield, OH, \$1,000 forfeiture for inaccurate data filing.

Amerisure Insurance Co., Farmington, MI, \$1,000 forfeiture for inaccurate data filing.

American International Insurance Co., Wilmington, DE, \$1,000 forfeiture for inaccurate data filing.

American States Insurance Co., Seattle, WA, \$1,000 forfeiture for inaccurate data filing.

American Travelers Assurance Co., Norwalk, CT, certificate of authority suspended.

Arch Insurance Co., New York, NY, \$1,000 forfeiture for inaccurate data filing.

AXA Corporate Solutions Insurance Co., New York, NY, \$1,000 forfeiture for inaccurate data filing.

Central United Life Insurance Co., Houston, TX, \$1,000 forfeiture for inaccurate data filing.

Centre Insurance Co., New York, NY, \$1,000 forfeiture for inaccurate data filing.

Church Insurance Co., New York, NY, \$1,000 forfeiture for inaccurate data filing.

Clarendon National Insurance Co., New York, NY, \$1,000 forfeiture for inaccurate data filing.

Continental Western Insurance Co., Des Moines, IA, \$1,000 forfeiture for inaccurate data filing.

Direct Response Insurance Administrative Services, Inc., Chanhassen, MN, certificate of authority suspended.

Everest National Insurance Co., Liberty Corner, NJ, \$1,000 forfeiture for inaccurate data filing.

Fairfield Insurance Co., Stamford, CT, \$1,000 forfeiture for inaccurate data filing.

Farmers Insurance Exchange, Overland Park, KS, \$1,200 forfeiture for paying commissions to unappointed agents.

GAB Robins Risk Management Services, Inc., Pursippany, NJ, certificate of authority suspended.

Gateway Insurance Co., St. Louis, MO, \$1,000 forfeiture for inaccurate data filing.

GE Life and Annuity Assurance Co., Richmond, VA, \$1,000 forfeiture for inaccurate data filing.

Guardian Insurance & Annuity Co., Inc., \$1,000 forfeiture for inaccurate data filing.

Insurance Co. of the West, San Diego, CA, \$1,000 forfeiture for inaccurate data filing.

Investors Insurance Corp., Jacksonville, FL, \$1,000 forfeiture for inaccurate data filing.

Loyal American Life Insurance Co., Cincinnati, OH, \$500 forfeiture for inaccurate data filing.

Madison National Life Insurance Co., Inc., Madison, WI, \$1,000 forfeiture for inaccurate data filing.

Manhattan Life Insurance Co., Houston, TX, \$1,000 forfeiture for inaccurate data filing.

Montgomery County Abstract and Title Co., Montgomery City, MO, \$350 forfeiture for lack of competency and unsound underwriting practices.

NCMIC Insurance Co., Des Moines, IA, \$1,000 forfeiture for inaccurate data filing.

Penn Mutual Life Insurance Co., Philadelphia, PA, \$1,000 forfeiture for inaccurate data filing.

Premier Land Title Co., Kansas City, MO, \$250 forfeiture for unsound underwriting practices.

Presidential Life Insurance Co., New York, NY, \$1,000 forfeiture for inaccurate data filing.

Pyramid Life Insurance Co., Mission, KS, \$1,000 forfeiture for inaccurate data filing.

Redland Insurance Co., New York, NY, \$1,000 forfeiture for inaccurate data filing.

(See *Regulatory Actions*, p. 7)

Regulatory Actions

(continued from page 6)

Reserve National Insurance Co., Oklahoma, OK, \$1,000 forfeiture for inaccurate data filing.

Schmersahl Treloar & Co., P.C., St. Louis, MO, certificate of authority suspended.

Securian Life Insurance Co., St. Paul, MN, \$1,000 forfeiture for inaccurate data filing.

Standard Security Life Insurance Co. of New York, New York, NY, \$1,000 forfeiture for inaccurate data filing.

Stateline TPA, Inc., Manmu, OH, certificate of authority suspended.

The Doctors Company, Napa, CA, \$1,000 forfeiture for inaccurate data filing.

Tri-State Insurance Co. of Minnesota, Des Moines, IA, \$1,000 forfeiture for inaccurate data filing.

United States Life Insurance Co. of New York, Houston, TX, \$1,000 forfeiture for inaccurate data filing.

Universal Guaranty Life Insurance Co., Springfield, IL, \$1,000 forfeiture for inaccurate data filing.

CMG Health, Inc., Fort Worth, TX, withdrew as a TPA.

Constitution State Services LLC of Delaware, Hartford, CT, changed its name to *Constitution State Services*.

Essence Inc., St. Louis, MO, was admitted as a HMO.

Harrington Benefits Services, Inc., Brooklyn Center, MN, added two fictitious names: *Fiserv Health Tennessee* and *Fiserv Health Kansas*.

NN Insurance Co., Trenton, NJ, merged with and into *Northwestern National Casualty Co.*

Physicians Professionals Indemnity Association, Union, MO, was admitted as Chapter 383 med mal practice company.

Total Plan Services, Inc., Dallas, TX, was admitted as a TPA.

USI Administrators, Fort Worth, TX, changed its name to *CBCA Administrators Inc.*



Financial Exams

Cameron Life Insurance Co., Cameron, MO.

Cameron Mutual Insurance Co., Cameron, MO.

Cameron National Insurance Co., Cameron, MO.

Columbia Mutual Insurance Co., Columbia, MO.

Riscorp National Insurance Co., Sarasota, FL.

Market Conduct Exams

Cameron Insurance Companies

Cameron, MO 64429-1321

Examination # 0204-02-PAC

\$10,000 forfeiture

Shelter Insurance Company

Columbia, MO

Examination #0132-12-PAC

\$21,363 forfeiture

Company Changes

American Administrative Group, Inc., Barrington, IL, withdrew as third party administrator (TPA).

Chartwell Insurance Co., Stamford, CT, merged into *Trenwick America Reinsurance Corp.*

MDI reschedules stakeholders, forums, advisory council meetings for August

Because of the special legislative session and other scheduling conflicts, MDI has rescheduled the annual stakeholders' forum and a joint industry/consumer advisory council meeting, first set for early June, to Aug. 5 and 6 in Jefferson City.

The stakeholders forum allows the general public and advocacy groups, including lobbyists, to comment on the insurance marketplace, MDI's regulatory approach and potential directions for the future. The joint meeting of MDI's industry and consumer advisory councils was scheduled so members could attend the stakeholders meeting and then advise MDI Director Scott B. Lakin on how to incorporate public comment into the agency's new annual strategic plan.

The same format is expected for the events in August, but the councils will comment on drafts of the strategic plan that MDI staff have prepared. Lakin will present the final draft to Gov. Bob Holden after early August. MDI will announce the times and places for the Aug. 5 and 6 events at a later date on the Web site. ❖



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